IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4904 OF 2006

GAD Shipping & Transport Pvt.Ltd. ....Petitioner
V/s.
Goods Transport Labour Board & Ors. ....Respondents

Mr.P.K. Rele, Senior Counsel with Mr.P.N. Anaolkar and Mr.R.P. Rege for the Petitioner.

Mrs.Lata Desai i/b Mrs.Pallavi Divekar for Respondent No.1.

Mrs.Bharati Patil for Respondent No.3.

**CORAM : F.I. REBELLO, &**
**S.J. VAZIFDAR, JJ.**
**DATED : 12TH FEBRUARY, 2007.**

**P.C.** :

1. Rule. Rule returnable and heard forthwith.

2. The Petitioner has impugned an order dated 24.5.2006 passed by Respondent No.1. Respondent No.2 is the Maharashtra Mathadi & General Kamgar Union. Respondent No.3 is Maharashtra Rajya Mathadi, Transport & General Kamgar Union. Respondent No.4 is the Collector, Raigad.

3. The Petitioner had registered itself with Respondent No.1 and was allotted Toli No.1877

consisting of 110 Mathadi workers.

4. 41 Mathadi workers claiming to be members of the third Respondent union submitted a charter of demands. The Petitioner entered into a settlement dated 17.2.2006 with the third Respondent union inter-alia in respect of wages.

5. Thereafter Respondent No.1 by its letter dated 22.3.2006 bifurcated the Toli of Mathadi workers into two Tolis bearing Toli Nos.1877 and 1877-A. The said 41 members were part of Toli No.1877 and the remaining 69 members were part of Toli No.1877-A. It appears that the bifurcation had been sought by the second Respondent union.

6. By a letter dated 6.5.2006 addressed to the Petitioner, Respondent No.1 contended that the Petitioner had failed to deposit an amount of about Rs.2,63,179=99 paise. The Petitioner was therefore, called upon to attend an enquiry.

7. The Petitioner by its reply dated 12.5.2006 raised various contentions. For the present purpose, it is sufficient to note that the Petitioner has specifically contended that due to inadequate work, it

was unable to pay the increased wages. The Petitioner further admitted that it had paid the increased wages as per the said settlement only to the workers pertaining to the Toli No.1877, as the agreement was entered into only with the third Respondent union of which they were the members. It is important to note that in respect of the workers pertaining to the Toli No.1877-A, the Petitioner had specifically requested that the Board should withdraw the workers as there was a decrease in the workload at the warehouse. The Petitioner therefore requested the first Respondent Board to take back these workers.

8. By the impugned order dated 24.5.2006, the Petitioner's contention and request were rejected.

9. We are not inclined to interfere with the impugned order in so far as it directs the payment of wages to all the workers. Admittedly, they had been allotted to the Petitioner and they have not been withdrawn till date. We however, find that the Petitioner's request for withdrawal of the workers has not been properly considered in the impugned order. The mere fact that they had been allotted is not by itself sufficient to deal with the factual aspect as to whether or not there was a decrease in the work

load.

10. In the circumstances, the Rule is made absolute in the following terms :-

i). The impugned order is set aside only in so far as it rejects the Petitioner's contention regarding decrease in work load. The matter is remanded to Respondent No.1 for a decision in this regard afresh. All the concerned parties shall be entitled to file further affidavits and/or documents. The decision to be taken within four weeks from the Petitioner paying all the outstanding amounts to the Board and wages to the workers.

ii). Rest of the impugned order shall remain. The Petitioner shall upto the date of the fresh decision continue paying the wages as payable.

iii). The amounts deposited in this Court shall be paid over to the first Respondent Board.

iv). There shall be no order as to costs.

(S.J. VAZIFDAR, J.) (F.I. REBELLO, J.)